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Attorneys for *Plaintiff*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PETER RUDOLPH, individually and on behalf of all others similarly situated,)	Case No. C-07-4578-SI
)	
Plaintiff,)	
)	
vs.)	
)	
UT STARCOM, HONG LIANG LU, MICHAEL SOPHIE, THOMAS TOY, and FRANCIS BARTON,)	
)	
Defendants.)	

WAIVER OF SERVICE OF SUMMONS

TO: Mark Punzalan

I acknowledge receipt of your request that I waive service of a summons in the above-captioned action. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint I this lawsuit by not requiring that I (the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after **September 13, 2007** (date request was sent).

Date

Signature

Printed/typed name:

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On Behalf of Thomas Toy

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

1 It is not good cause for a failure to waive service that a party believes that the complaint is
2 unfounded, or that the action has been brought in an improper place or in a court that lacks
3 jurisdictions over the subject matter of the action or over its person or property. A party who
4 waives service of the summons retains all defenses and objections (except any relating to the
5 summons or service of the summons), and may later object to the jurisdiction of the court of to the
6 place where the action has been brought.

7 A defendant who waives service must within the time specified on the waiver form serve
8 on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also
9 file a signed copy of the response with the court. If the answer or motion is not served within this
10 time, a default judgment may be taken against that defendant. By waiving service, a defendant is
11 allowed more time to answer than if the summons had been actually served when the request for
12 waiver of service was received.